

UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 10/808,953 03/25/2004 Russell Berger S032 P00864-US1 6353 3017 7590 12/29/2005 EXAMINER BARLOW, JOSEPHS & HOLMES, LTD. 101 DYER STREET 5TH FLOOR PROVIDENCE, RI 02903 ART UNIT PAPER NUMBER 2872					
3017 7590 12/29/2005 EXAMINER BARLOW, JOSEPHS & HOLMES, LTD. 101 DYER STREET 5TH FLOOR ART UNIT PAPER NUMBER	APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
BARLOW, JOSEPHS & HOLMES, LTD. 101 DYER STREET 5TH FLOOR ART UNIT PAPER NUMBER	10/808,953	03/25/2004	Russell Berger	S032 P00864-US1 6353	
101 DYER STREET 5TH FLOOR ART UNIT PAPER NUMBER	3017 7:	590 12/29/2005		EXAM	IINER
STITLEOOK			SHAFER,	RICKY D	
PROVIDENCE, RI 02903	5TH FLOOR	. — -		ART UNIT	PAPER NUMBER
	PROVIDENCE	E, RI 02903		2872	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/808,953	BERGER, RUSSELL				
Office Action Summary	Examiner	Art Unit				
	Ricky D. Shafer	2872				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim fill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	lely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 26 Se						
<i>;</i>	, _					
* * * * * * * * * * * * * * * * * * * *	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4) Claim(s) 1 and 3-13 is/are pending in the application						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to.						
8) Claim(s) 1 and 3-13 are subject to restriction a	nd/or election requirement.					
Application Papers						
9) The specification is objected to by the Examine						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)						
 Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) 	4) Interview Summary Paper No(s)/Mail D					
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date		Patent Application (PTO-152)				

Application/Control Number: 10/808,953 Page 2

Art Unit: 2872

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

- A). The species depicted by Fig. 7;
- B). The species depicted by Fig. 8;
- C). The species depicted by Fig. 9; and
- D). The species depicted by Fig. 10.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

Application/Control Number: 10/808,953 Page 3

Art Unit: 2872

examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS

December 26, 2005

TRICKY D. SHAFEY PATENT EXAMINER ART UNIT 255 7872